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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

10

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/829,409

Applicant(s)

SIEBERS ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-44 is/are pending in the application.
- 4a) Of the above claim(s) 25-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group II, Claims 32-44, in Paper No. 9 is acknowledged. The traversal is on the ground(s) that two inventions are closely related. This is not found persuasive because the product and the method of making are classified in separate classes.

The requirement is still deemed proper and is therefore made FINAL.

Claims 25-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32-35 and 37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gaskell et al., U.S. Patent 3,809,543.

Gaskell et al. disclose a glass that is manufactured by the float method. See column 3, lines 32-39. Gaskell et al. disclose that the glass can be made from the SiO<sub>2</sub>-Al<sub>2</sub>O<sub>3</sub>-Li<sub>2</sub>O system with nucleating agents such as TiO<sub>2</sub>, ZrO<sub>2</sub>, and P<sub>2</sub>O<sub>5</sub>. See column 1, lines 46-52. Gaskell et al. disclose Example 9, which meets the compositional limitations of claims 32-35 and 37. See

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Table I. Gaskell et al. disclose that these glasses are thermally treated to form a crystallizable glass-ceramic. See column 2, lines 56-65. Gaskell et al. disclose that the crystal phases present are Beta-quartz, beta-spodumene (also known as keatite), and beta-eucryptite. See column 7, line 36 and column 8, lines 21 and 38.

Claim 32 recites that the glass is “configured to be prestessable”. Gaskell et al. disclose a flat glass, which could undergo “prestressing” treatments. See column 3, lines 32-38.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Gaskell et al. would inherently possess the same light transmittance, coefficient of thermal expansion,  $T_g$ , and processing temperatures as recited in claim 37. See MPEP 2112.

Claims 32-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Krolla et al., U.S. Patent 5,446,008.

Krolla et al. disclose a transparent or translucent glass-ceramic comprising a lithium-alumino-silicate glass. See abstract of Krolla et al. The compositional ranges of Krolla et al. are sufficiently specific to anticipate the compositional limitations of claims 32-44. See MPEP 2131.03. Krolla et al. disclose that the glass optionally contain high quartz and/or keatite crystals. See abstract of Krolla et al. The reference discloses that the glass ceramics are used for cooking surfaces, cookware, and domes for IR detectors in airplanes. See column 4, lines 9-15.

Claims 32, 40, and 44 define the product by how the product was made in that the claims recite a “float” glass. Thus, claims 32, 40, and 44 are product-by-process claims. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113. In the present case, the recited

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steps imply a structure of a flat glass. The reference suggests such a product. See column 5, lines 64-65.

Claim 32 recites that the glass is “configured to be prestessable”. Krolla et al. disclose a flat glass, which could undergo “prestressing” treatments. See column 1, lines 26-28.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Krolla et al. would inherently possess the same light transmittance, coefficient of thermal expansion,  $T_g$ , and processing temperatures as recited in claims 37-39 and 41-43. See MPEP 2112.

Claims 32, 40, 41, and 44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Comte et al., U.S. Patent 5,070,045.

Comte et al. disclose a transparent glass-ceramic comprising a lithium-alumino-silicate glass. See abstract of Comte et al. The compositional ranges of Comte et al. are sufficiently specific to anticipate the compositional limitations of claims 32, 40, 41, and 44. See MPEP 2131.03. Furthermore, Comte et al. disclose examples 7 and 8, which meet the compositional limitations of claims 32, 40, 41, and 44. See Table 1. Comte et al. disclose that the glass optionally contains high quartz crystals. See abstract of Comte et al. The reference further discloses that a solid solution of beta-spodumene (also known as keatite) develops when heated to a higher temperature. See column 3, lines 50-56. The reference discloses that the glass ceramics are used for cooktop plates, heat resistant glazing, and cookware. See column 3, lines 28-32, 46-49, and 60-66.

Claims 32, 40, and 44 define the product by how the product was made in that the claims recite a “float” glass. As noted above, claims 32, 40, and 44 are product-by-process claims, and are for purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113. In the present case, the recited steps imply a structure of a flat glass. The reference suggests such a product. See column 5, lines 60-65.

Claim 32 recites that the glass is “configured to be prestessable”. Comte et al. disclose a flat glass, which could undergo “prestressing” treatments. See abstract of Comte et al.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Comte et al. would inherently possess the same light transmittance, coefficient of thermal expansion,  $T_g$ , and processing temperatures as recited in claim 41. See MPEP 2112.

Claims 32-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shibuya et al., U.S. Patent 4,835,121.

Shibuya et al. disclose an infrared transparent glass-ceramic top plates of cooking stoves comprising a lithium-alumino-silicate glass. See abstract of Shibuya et al. The compositional ranges of Shibuya et al. are sufficiently specific to anticipate the compositional limitations of claims 32-44. See MPEP 2131.03. Furthermore, Shibuya et al. disclose example 9, which meet the compositional limitations of claims 32, 40, 41, and 44. See Table 2. Shibuya et al. disclose that the glass optionally contains high quartz crystals. See abstract of Shibuya et al. The reference further discloses that beta-spodumene (also known as keatite) crystals develop when heated to a higher temperature. See column 3, lines 8-11.

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Claim 32 recites that the glass is “configured to be prestessable”. Shibuya et al. disclose a flat glass, which could undergo “prestressing” treatments. See abstract.

Claims 32, 40, and 44 define the product by how the product was made in that the claims recite a “float” glass. As noted above, claims 32, 40, and 44 are product-by-process claims. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113. In the present case, the recited steps imply a structure of a flat glass. The reference suggests such a product. See column 1, lines 45-48.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Shibuya et al. would inherently possess the same light transmittance, coefficient of thermal expansion,  $T_g$ , and processing temperatures as recited in claims 37-39 and 41-43. See MPEP 2112.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB

March 6, 2003

  
DAVID SAMPLE  
PRIMARY EXAMINER